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MAY 19 1993

May 19, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Attention: Allocations Branch

RE: Comments in MM Docket No. 93-66
RM-8192
New Wavo Communication Group, Inc.
Huntsville and Willis, Texas

Dear Ms. Searcy:

Transmitted herewith, on behalf of New Wavo Communication Group, Inc., licensee of FM station KVST, Huntsville, Texas, are an original and four copies of its Comments in the above-referenced proceeding which support the proposed reallocation of Channel 279C3 from Huntsville to Willis, Texas, as that community's first local aural transmission service, and the proposed modification of KVST's authorization to specify operation thereon.

Should any additional information be required, please contact this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

F. H. & H.

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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MAY 19 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 Amendment of Section 73.202(b)) MM Docket No. 93-66
 Table of Allotments) RM-8192
 FM Broadcast Stations)
 (Huntsville and Willis, Texas))

To: Chief, Allocations Branch

COMMENTS

New Wavo Communication Group, Inc. ("New Wavo"), licensee of FM station KVST, Huntsville, Texas, by its attorneys, hereby submits its Comments in support of the proposed reallocation of Channel 279C3 to Willis, Texas, from Huntsville, Texas, to provide that community with its first local aural transmission service, and the corresponding modification of KVST's authorization to specify operation thereon. In support thereof, the following is stated:

1. On February 8, 1993, New Wavo filed its "Petition for Rulemaking and Request for Modification of Authorization" (RM-8192). On March 30, 1993, the Commission released its Notice of Proposed Rule Making in the above-captioned proceeding, DA 93-270 ("NPRM"), in response to New Wavo's petition.

2. New Wavo hereby restates its support for the relocation of KVST from Huntsville to Willis, Texas, and restates its present intention to promptly apply for a construction permit to modify KVST's authorization to serve Willis. New Wavo will expeditiously construct such modified facilities upon grant of its application.

3. Section 1.420(i) of the FCC's Rules requires that community change proposals result in a preferential arrangement of allotments. A preferential arrangement of allotments results when there is a net service benefit for the communities involved. Modification of FM and TV Authorizations (New Community of License), 66 R.R.2d 877, 882 (1989). Consistent with Section 1.420(i), the FCC will not consider competing expressions of interest in the use of Channel 279C3 at Willis, Texas, because the proposed allotment of Channel 279C3 to Willis, Texas, is mutually exclusive with the current allotment of Channel 279C3 at Huntsville, Texas; the proposed change in allotments will not deprive Huntsville, Texas, of its only local aural transmission service; and New Wavo's proposed change in allotments will result in a preferential distribution of facilities under the Commission's FM allotment priorities and policies. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989).

4. The provision of a first local aural transmission service is the Commission's second most important FM allotment priority, co-equal with second aural service, and trailing in weight only behind the provision of a first aural service. Revision of FM Assignment Policies and Procedures, 90 F.C.C.2d 88 (1982). Thus, the allotment of Channel 279C3 at Willis, Texas, as that community's first local aural service is to be preferred over leaving the channel in Huntsville, Texas, as a sixth local aural transmission service. See, e.g., Jesup and Midway, Georgia, DA 91-

490, released April 23, 1991. The U.S. Court of Appeals for the District of Columbia Circuit has stated that: "[l]ocal transmission service bestows such important benefits that we have consistently interpreted Section 307(b) virtually to ensure an applicant for first local service preference over one who proposed merely to complement preexisting local operations." Pasadena Broadcasting Co. v. F.C.C., 555 F.2d 1046, 1050-51 (1977).

5. As stated above, the proposed relocation of KVST to Willis will result in that city's first local aural transmission service, which is the Commission's third FM allotment priority and second in weight behind provision of a first aural service. The removal of KVST from Huntsville, Texas, on the other hand, will not deprive that city of its only local aural transmission service because five radio stations will remain assigned to Huntsville. The move of KVST from Huntsville only involves factors under the Commission's fourth FM allotment priority, "other public interest factors". Thus, New Wavo's proposal will result in a preferential arrangement of allotments.

6. Willis is an incorporated city deserving of its own local aural transmission service. It is governed by a mayor and five aldermen. The City of Willis provides water, sewer, police and other services. Willis has its own bank, medical clinic, ambulance service, library, schools, parks and newspaper. The allotment of Channel 279C3 to Willis, Texas, will provide the city with a vital outlet for local expression.

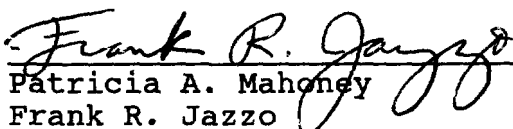
7. As requested in the NPRM, the attached statement by Lyndon H. Willoughby, New Wavo's Technical Consultant, provides information regarding reception service losses and gains that would result from adoption of this proposal. Mr. Willoughby shows that 217,561 people will be within KVST's 60 dBu contour if operated from Willis as proposed. KVST presently only serves 127,135 people within its 60 dBu contour. Thus adoption of this proposal will result in a net gain in population served of 71% or 90,426 people. The gain area will contain 128,231 people and the loss area will only contain 37,805 people. Significantly, no white or gray areas will be created as a result of this proposal.

WHEREFORE, for the foregoing reasons, New Wavo respectfully requests that the Commission amend Section 73.202(b) of its Rules to allot Channel 279C3 at Willis, Texas, and to delete Channel 279C3 at Huntsville, Texas, and to modify KVST's authorization to specify operation thereon.

Respectfully submitted,

NEW WAVO COMMUNICATION GROUP, INC.

BY:


Patricia A. Mahoney
Frank R. Jazzo

Its Attorneys

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(703) 812-0400
May 19, 1993

WILLOUGHBY & VOSS

COMMENTS & SUPPLEMENTAL DATA
IN SUPPORT OF
MM DOCKET 93-66, RM-8192 TO
AMEND §73.202(b), FM TABLE OF ALLOTMENTS
on behalf of
NEW WAVO COMMUNICATION GROUP, INC.
APRIL, 1993

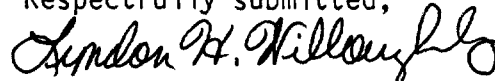
This supplemental statement, filed as Comments, contains information regarding reception service losses and gains that would result from adoption of MM Docket 93-66, RM-8192.

The total land area within the existing KVST 60 dBu contour is 4,502 square-kilometers. The total land area within the 60 dBu contour which will result from an adoption of the petition is 4,801 square-kilometers. The area lost will be 1,115 square-kilometers and the area gained will be 1,414 square-kilometers, resulting in a net change of 56%¹. The 60 dBu land area which is "common" to both the present and proposed KVST facilities is 3,387 square-kilometers. This common area also includes the community of Huntsville, see attached map exhibit.

The total population within the existing KVST 60 dBu contour is 127,135. The total population within the 60 dBu contour which will result from an adoption of the instant petition is 217,561. Assuming uniform population distribution the lost population will be 37,805 and the gained population is 128,231, for a net gain of 71% (or 90,426).

April 23, 1993

Respectfully submitted,



Lyndon H. Willoughby
Technical Consultant to:

New Wavo Communication Group, Inc.

¹ Net change is defined as the sum of the area gained and the area lost as a percentage of the original area.

